

**PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: James Gray

Serial No: 10/611,453

Filing Date: 6/30/2003

Confirm No: 1614

Title: SYSTEM AND METHOD FOR ENHANCED HOT KEY FUNCTIONALITY

Examiner: Salce, Jason P.

Art Group: 2623

Docket No: ATT030073

Date: 12/14/2009

Honorable Commissioner of
Patents and Trademarks,
Alexandria, Virginia 22313

PREAPPEAL BRIEF REQUEST FOR REVIEW

1. In Office Action mailed on 9/21/2009 regarding the above-captioned patent application, the Examiner rejected claims 14-17, 19, 76-79 and 81 under 35 USC § 102 (e) as being anticipated by Blackketter (U.S. Patent No. 7,237,253); claims 18, 49 and 80 under 35 USC § 103 (a) as being unpatentable over Blackketter (U.S. Patent No. 7,237,253) and claims 45-48 and 50 under 35 USC § 103 (a) as being unpatentable over Blackketter (U.S. Patent No. 7,237,253) in view of Field (U.S. Patent No. 6,018,764). Applicant respectfully believes that there is a clear deficiency in the *prima facie* case in support of this rejection and requests review of the allowability of claims 14-19, 45-50 and 76-81 pursuant to the Pre-Appeal Brief Pilot Program.

2. As discussed above, claim 14 was rejected under 35 USC § 102 (e) as being anticipated by Blackketter (U.S. Patent No. 7,237,253). Claim 14 recites in part:

“receiving at a user device an indicator signal from an interactive television service provider's network, the indicator signal indicating availability of alternate content and containing data representing an indicator form;

determining, at the user device and independent of any request by a user of the user device for the alternate content, whether the indicator signal is relevant to a user viewing original content provided by the interactive television service provider's network;

responsive to determining that the indicator signal is not relevant to the user, filtering the indicator signal; and

responsive to determining the indicator signal is relevant to the user, displaying on a screen an indication that the indicator signal has been received, the indication corresponding to the data representing the indicator form,

wherein subject matter of the alternate content is different from subject matter of the original content; and

wherein the determining is based at least in part on one of the following: a content type selected by the user; and a genre selected by the user.” [emphasis added]

In setting forth the basis for the rejection, the Examiner points to steps 302-310 in Figure 9 for determining an interactive mode based on the received television program. Blackketter's description of FIG. 9 includes the following:

FIG. 9 is a flow diagram illustrating a procedure for displaying indicators that an interactive mode and/or an online mode is available. A television broadcast source (such as source 112 in FIG. 1) broadcasts a television signal containing a television program and encoded information regarding available interactive modes and/or online modes (step 300). An interactive television device (such as device 108 in FIG. 1) receives the broadcast television signal and displays the television program on a display device (step 302). The interactive television device decodes the information regarding available interactive and/or online modes (step 304). Additionally, the interactive television device decodes information regarding a web site or network address for accessing the interactive data. The procedure then determines whether an interactive mode is available (step 306). If an interactive mode is not available, then the procedure branches to a step that determines whether an online mode is available. If an interactive mode is available, the interactive television device displays an indicator that an interactive mode is available for the current television program (step 308). This indicator may be any one or more of the title 260, the icon 262, or the "Go Interactive" button 264 shown in FIG. 4.

The procedure next determines whether an online mode is available (step 310). If an online mode is not available, then the procedure branches to step 314 without displaying an online mode indicator. If an online mode is available, the interactive television device displays an indicator that an online mode is available for the current television program (step 312). This indicator may be, for example, any one or more of the title 290, the

icon 292, or the "Go to Web Page" button 294 shown in FIG. 7. The procedure continues displaying the television program (and any displayed indicators) on the display device (step 314). After a predetermined time period, such as fifteen seconds, any displayed indicators are removed from the display device (step 316). Removing any indicators after a particular time period avoids creating a distraction to a viewer that is not interested in activating an interactive mode or an online mode.

In summary:

1. In Step 300, Blackketter encodes a broadcast with information to indicate if either an interactive mode is available or an online mode is available or both.
2. In step 304, the television device decodes the information, and in steps 306 and 310, the device determines if the interactive mode is available or the online mode is available or both. The determination of availability is made based on decoding the encoded information sent with the broadcast. If either mode is available, a corresponding indicator is displayed as shown in steps 308 and 312.

There is never a case where an indicator indicates the available of alternative content that is not displayed. If the interactive mode is available, Blackketter's television signal includes encoded information that indicates the availability of the interactive mode. Blackketter's television device receives the encoded information and decodes it to indicate the interactive mode is available. An indicator is then displayed.

If the interactive mode is not available, Blackketter's television signal includes encoded information that indicates the unavailability of the interactive mode. Blackketter's television device receives the encoded information and decodes it to indicate the interactive mode is unavailable. An indicator is not displayed.

Blackketter's television device never receives encoded information indicating the availability of an interactive mode, decodes it and then filters it – to not display an indicator. If the interactive mode is available for a particular broadcast, an indicator is

displayed. The same is true for the online mode. Blackketter's television device never receives encoded information indicating the availability of an online mode, decodes it and then filters it – to not display an indicator. If the online mode is available for a particular broadcast, an indicator is displayed.

For these reasons, claim 14 and claims 15-19 that depend therefrom are patentably distinct from the prior art.

3. As discussed above, claims 45 and 76 were also rejected under 35 USC § 102 (e) as being anticipated by Blackketter (U.S. Patent No. 7,237,253). Claims 45 and 76 have been amended in a similar fashion to claim 14. For similar reasons as set forth in the discussion of claim 14, reasons, claim 45 and 76, and 46-50 and 77-81 that depend therefrom are patentably distinct from the prior art.

The Examiner is invited to contact the undersigned by telephone or facsimile if the Examiner believes that such a communication would advance the prosecution of the present invention.

RESPECTFULLY SUBMITTED,

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